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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/589,417
Filing Date: November 07, 2006
Appellant(s): MAIL ET AL.

L. Friedman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/06/2010 appealing from the Office action mailed 5/20/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

1, 3-14, 17-21, 26-29, 31-42, 45-49 and 58-60.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

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subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

2004/0181550	Warsta et al.	9-2004
7,003,551	Malik	2-2006

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-14, 29, 31-42, are rejected under 35 U.S.C. 103(a) as being unpatentable over Warsta et al. (US 2004/0181550, cited in OA dated 7/06/2009), in view of Malik (US 7,003,551, cited in OA dated 7/06/2009).

With respect to claims 1, 29 Warsta teaches: A method for distributing multimedia content, the method comprising:

Storing an item of multimedia content as stored multimedia content at a multimedia message center (MMSC); (“MMSC is responsible for storing incoming and outgoing MMS messages, as well as the transfer of messages between different messaging systems” Warsta paragraph [0044])

Firstly transcoding (“the adaptation of content is performed in accordance with the received capabilities” Warsta paragraph [0010]) said multimedia content for playback on a first multimedia device, thereby producing a firstly transcoded version of said multimedia content; (“The requesting network device capabilities are compared to previous requesting network device capabilities, such that if a capability match is found, previously adapted content may be transmitted to the requesting network device” And generally Warsta paragraph [0024])

Generating a content ID of said firstly transcoded version of said multimedia content; (“the adapted content is cached within database 616 and indexed according to content ID and terminal type” Warsta paragraph [0058])

Storing said content ID of said firstly transcoded version of said multimedia content, as a stored first content ID, in association with said stored multimedia content; (“the adapted content is cached within database 616 and indexed according to content ID and terminal type” Warsta paragraph [0058])

Transcoding said stored multimedia content for playback on said second multimedia device (“The requesting network device capabilities are compared to previous requesting network device capabilities, such that if a capability match is found, previously adapted content may be transmitted to the requesting network

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device, obviating the need for an additional adaptation.” And generally Warsta paragraph [0024]; Also, “Not only are network elements 108 and 110 capable of caching or otherwise storing content 104, but they are also able to cache/store (hereinafter "cache") the various adaptations of content 104” Warsta paragraph [0029])

Warsta does not explicitly recite:

Receiving, at said MMSC an instruction to forward said item of multimedia content to a second multimedia device, said instruction comprising a copy of said firstly transcoded version of said multimedia content; and

Performing the following in response to said instruction:

Accessing said stored content using said stored first content ID of said firstly transcoded version of said multimedia content, said accessing comprising:

Generating a received content ID of said copy of said firstly transcoded version of said multimedia content; and

Looking up said stored multimedia content by comparing said received content ID with said stored first content ID; and

Malik teaches such lacking elements:

Receiving, at said MMSC an instruction to forward said item of multimedia content to a second multimedia device, said instruction comprising a copy of said firstly transcoded version of said multimedia content; and (“Some of the recipients may in turn forward this e-mail communication to other groups of recipients.” Malik column 2 line 15)

Performing the following in response to said instruction:

Accessing said stored content using said stored first content ID of said firstly transcoded version of said multimedia content, said accessing comprising:

Generating a received content ID of said copy of said firstly transcoded version of said multimedia content; and ("The duplication checker next identifies the properties associated with the attachment file in the file header" Malik column 6 line 35)

Looking up said stored multimedia content by comparing said received content ID with said stored first content ID; and ("processing step generates information by which the attachment file comparison section 26 of the duplication checker 24 can search the attachment file storage database 28 for identical attachment files" Malik column 5 line 35)

A person of ordinary skill in the art at the time of invention would have combined Warsta with Malik by including the mail store (item 23 figure 2 of Malik) with the MMSC (item 320 of figure 3 of Warsta) to store attachments (item 29a figure 2 of Malik) and content (Figure 5 of Warsta), thereby allowing forwarding and content ID lookups of Malik by including a message table with forwarding functionality as described in Malik in the invention of Warsta. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to include a 'mail store' in Warsta in order to consolidate the storage for forwarded communications (Malik column 2 line 40).

With respect to claims 3, 31 Warsta teaches: wherein said storing an item of multimedia content comprises storing said item of multimedia content together with an

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original content identifier (ID) identifying said content. ("the adapted content is cached within database 616 and indexed according to content ID and terminal type" Warsta paragraph [0058])

With respect to claims 4, 32 Warsta in view of Malik teaches: wherein said storing an item of multimedia content comprises storing said item of multimedia content together with an original content identifier (ID) that uniquely identifies said content. ("the adapted content is cached within database 616 and indexed according to content ID and terminal type" Warsta paragraph [0058]; Also "such as checksum determination" Malik column 5 line 30)

With respect to claims 5, 33 Warsta in view of Malik teaches: storing said item of multimedia content in its original form. ("Not only are network elements 108 and 110 capable of caching or otherwise storing content 104, but they are also able to cache/store (hereinafter "cache") the various adaptations of content 104" Warsta paragraph [0029]; Also "stores the attachment file" Malik column 5 line 40)

With respect to claims 6, 34 Warsta in view of Malik teaches: storing said item of multimedia content such that said content may be partly or wholly reconstituted. ("Not only are network elements 108 and 110 capable of caching or otherwise storing content 104, but they are also able to cache/store (hereinafter "cache") the various adaptations of content 104" Warsta paragraph [0029]; Also "The mail store then creates a link in the record of the header database to the attachment in the cache portion" Malik column 5 line 61)

With respect to claims 7, 35 Warsta in view of Malik teaches: receiving said original content ID from a provider of said content. (See Warsta Figure 5 content IDs as filenames; also “The duplication checker next identifies the properties associated with the attachment file in the file header, which may include any of: title/name . . .” Malik column 6 line 35)

With respect to claims 8, 36 Warsta in view of Malik teaches: further comprising generating said original content ID by applying either of a predefined hashing method and a predefined fingerprinting method to said content and using either of the resulting hash and fingerprint as said original content ID. (“the adapted content is cached within database 616 and indexed according to content ID and terminal type” Warsta paragraph [0058]; also “such as checksum determination” Malik column 5 line 30)

Regarding claims 9, 37, Warsta teaches: associating said original content ID with different transcoded versions of said content. (“the adapted content is cached within database 616 and indexed according to content ID and terminal type” Warsta paragraph [0058])

Regarding claims 10, 38, Warsta teaches: sending a notification to said first multimedia device indicating that said content is available for download to said multimedia device. (“The M-Notification.ind inform mobile terminal 316 about the contents of received message 326 and its purpose is to allow mobile terminal 316 to fetch multimedia message 326 from MMSC 320” Warsta paragraph [0050])

Regarding claims 11, 39, Warsta teaches: delivering said firstly transcoded content to said first multimedia device in an MMS message. (“The messaging

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capabilities include mobile originated messages sent to other mobile terminals or applications and application originated messages sent to mobile terminals or other applications” Warsta paragraph [0044]; See also Warsta paragraph [0033])

Regarding claims 12, 40, Warsta in view of Malik teaches: delivering said firstly transcoded content to said first multimedia device, in an mms message, together with any of said content IDs. (“extraction of certain attachment file header information.” Malik column 5 line 30)

Regarding claims 13, 41, Warsta in view of Malik teaches: receiving said firstly transcoded content from said multimedia device in an MMS message; and (“Some of the recipients may in turn forward this e-mail communication to other groups of recipients.” Malik column 2 line 15)

Regenerating said content ID of said firstly transcoded content. (“generate file identification information. . . . such as checksum determination, or extraction of certain attachment file header information.” Malik column 5 line 30; Also “The duplication checker next identifies the properties associated with the attachment file in the file header” Malik column 6 line 35)

Regarding claims 14, 42, Warsta in view of Malik teaches: wherein said regenerating step comprises regenerating said content ID of said firstly transcoded content using the same method used to generate said content ID of said firstly transcoded content. (“generate file identification information. . . . such as checksum determination, or extraction of certain attachment file header information.” Malik column 5 line 30)

Claims 17-21, 26-28, 45-49, are rejected under 35 U.S.C. 103(a) as being unpatentable over Warsta et al. (US 2004/0181550), in view of Malik (U.S. 7,003,551), in view of Kobata (US 2002/0077986).

With respect to claims 17, 45, Warsta in view of Malik does not teach protecting transcoded content with a content protection key (CPK). Kobata teaches said limitation, “the digital asset may be stored in an encrypted format. . . decrypting the digital asset may include retrieving a key from the intermediate server” (Kobata paragraph [0035]). A person of ordinary skill in the art would have modified Warsta in view of Malik with Kobata by including in the message table a digital rights manager of the form described in Kobata. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to modify the combination to provide “secure [] communication and control of digital assets” (Kobata Abstract)

With respect to claims 18, 46, Warsta in view of Malik does not teach identifying any rights associated with providing said content to any of said multimedia devices;

Generating at least one entitlement as a function of said rights; and

Providing said content to any of said multimedia devices in accordance with said entitlement. (“Furthermore depending on the digital rights defined for a particular copy or form of digital content 320, the end-user may be able to forward the digital content” Kobata paragraph [0124]). A person of ordinary skill in the art would have modified Warsta in view of Malik with Kobata by including in the message table a digital rights manager of the form described in Kobata. It would have been obvious at the time the

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invention was made to a person of ordinary skill in the art to modify the combination to provide "secure [] communication and control of digital assets" (Kobata Abstract)

With respect to claims 19, 47, Warsta in view of Malik does not teach determining if said copy of said firstly transcoded content is protected;

If said copy is protected, determining if said content may be forwarded to said second multimedia device as indicated by any rights associated with either of said content and the recipient of said firstly transcoded content; and

If said content may be forwarded, protecting and forwarding said secondly transcoded content to said second multimedia device. ("Furthermore depending on the digital rights defined for a particular copy or form of digital content 320, the end-user may be able to forward the digital content" Kobata paragraph [0124]). A person of ordinary skill in the art would have modified Warsta in view of Malik with Kobata by including in the message table a digital rights manager of the form described in Kobata. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to modify the combination to provide "secure [] communication and control of digital assets" (Kobata Abstract)

With respect to claims 20, 48, Warsta in view of Malik in view of Kobata teaches: protecting said secondly transcoded content with a content protection key (CPK) associated with said secondly transcoded content. ("The tracking techniques may be employed to implement "super-distributions" in which users to which a digital asset is distributed are authorized to redistribute the digital asset to other users (though perhaps with more limited rights)." Kobata paragraph [0021])

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With respect to claims 21, 49, Warsta in view of Malik in view of Kobata teaches: wherein said first determining step comprises determining that said copy of said firstly transcoded content is protected by identifying a CPK stored in association with the content ID. ("As an alternative, rights may be stored locally but separately from the digital asset with a link to the digital asset" Kobata paragraph [0023])

With respect to claim 26, Warsta teaches: A multimedia content distribution system comprising:

An MMS server;

An MMS relay; ("MMSC" Warsta paragraph [0044]. MMSC as defined by the Appellant includes an MMS server which controls storage (Warsta paragraph [0044]) and an MMS relay which controls transcoding (Warsta paragraph [0052]) and delivery (Warsta paragraph [0044]))

A transcoder; and ("For each distinct mobile terminal capability type, a content adaptation is prepared for each mobile terminal capability type" And generally Warsta paragraph [0061])

Wherein said MMS server, MMS relay, transcoder are individually or cooperatively operative to:

Store an item of multimedia content as stored multimedia content; ("MMSC is responsible for storing incoming and outgoing MMS messages, as well as the transfer of messages between different messaging systems" Warsta paragraph [0044])

Firstly transcode said multimedia content for playback on a first multimedia device, thereby producing a firstly transcoded version of said multimedia content; ("The requesting network device capabilities are compared to previous requesting network device capabilities, such that if a capability match is found, previously adapted content may be transmitted to the requesting network device" And generally Warsta paragraph [0024])

Generate a content ID of said firstly transcoded version of said multimedia content;

Store said content ID of said firstly transcoded version of said multimedia content, as stored first content ID, in association with said stored multimedia content; ("the adapted content is cached within database 616 and indexed according to content ID and terminal type" Warsta paragraph [0058])

transcode said stored multimedia content for playback on said second multimedia device content for playback on said second multimedia device. ("The requesting network device capabilities are compared to previous requesting network device capabilities, such that if a capability match is found, previously adapted content may be transmitted to the requesting network device, obviating the need for an additional adaptation." And generally Warsta paragraph [0024]; Also, "Not only are network elements 108 and 110 capable of caching or otherwise storing content 104, but they are also able to cache/store (hereinafter "cache") the various adaptations of content 104" Warsta paragraph [0029])

Warsta does not explicitly recite:

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A DRM server,

Receive an instruction, via a multimedia message service (MMS) message, to forward said item of multimedia content to a second multimedia device, said instruction comprising a copy of said firstly transcoded version of said multimedia content; and

perform the following in response to said instruction:

access said stored content using said stored first content ID of said firstly transcoded version of said multimedia content, comprising:

generating a received content ID of said stored copy of said firstly transcoded version of said multimedia content; and

looking up said stored multimedia by comparing said received content ID with said stored first content ID; and

Malik teaches:

Receive an instruction, via a multimedia message service (MMS) message, to forward said item of multimedia content to a second multimedia device, said instruction comprising a copy of said firstly transcoded version of said multimedia content; and

("Some of the recipients may in turn forward this e-mail communication to other groups of recipients." Malik column 2 line 15)

perform the following in response to said instruction:

access said stored content using said stored first content ID of said firstly transcoded version of said multimedia content, comprising:

generating a received content ID of said stored copy of said firstly transcoded version of said multimedia content; and ("The duplication checker next

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identifies the properties associated with the attachment file in the file header” Malik column 6 line 35)

looking up said stored multimedia by comparing said received content ID with said stored first content ID; and (“processing step generates information by which the attachment file comparison section 26 of the duplication checker 24 can search the attachment file storage database 28 for identical attachment files” Malik column 5 line 35)

A person of ordinary skill in the art at the time of invention would have combined Warsta with Malik by including the mail store (item 23 figure 2 of Malik) with the MMSC (item 320 of figure 3 of Warsta) to store attachments (item 29a figure 2 of Malik) and content (Figure 5 of Warsta), thereby allowing forwarding and content ID lookups of Malik by including a message table with forwarding functionality as described in Malik in the invention of Warsta. It would have been obvious at the time the invention was made to a person of ordinary skill in the art to include a 'mail store' in Warsta in order to consolidate the storage for forwarded communications (Malik column 2 line 40).

Furthermore, Warsta in view of Malik does not disclose A DRM server.

Kobata teaches a DRM server: “Fig. 3 shows a computer device 310 in communication with a server-based global rights manager unit” (Kobata paragraph [0116]). A person of ordinary skill in the art would have modified Warsta in view of Malik with Kobata by including in the message table a digital rights manager of the form described in Kobata. It would have been obvious at the time the invention was made to

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a person of ordinary skill in the art to modify the combination to provide "secure [] communication and control of digital assets" (Kobata Abstract)

With respect to claim 27, Warsta in view of Malik in view of Kobata teaches: wherein any of said MMS server, MMS relay, transcoder, and DRM server are individually or cooperatively operative to track whom said content is sent and with what rights. ("The server may maintain a virtual database of digital assets and may use the database in implementing functions such as data mining, tracking, and monitoring of rights consumption" Kobata paragraph [0018])

With respect to claim 28, Warsta in view of Malik in view of Kobata teaches: wherein said DRM server acts as either of a probe and a proxy between any of said MMS server, said MMS relay, and said transcoder. ("The server-based approach to communicating digital assets provides a number of other advantages. . . . it may be used to control digital asset delivery. . ." Kobata paragraph [0024])

Claims 58-60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Warsta et al. (US 2004/0181550), in view of Malik (US 7,003,551), in view of Mattis et al. (US 6,128,623, cited in OA dated 7/06/2009)

With respect to claim 58-60, Warsta in view of Malik teaches: wherein said generating a content ID of said firstly transcoded version of said multimedia content comprises:

Applying either of the following to said firstly transcoded version of said multimedia content, and producing a result:

A predefined hashing method; and

A predefined fingerprinting method; and (“generate file identification information. . . . such as checksum determination, or extraction of certain attachment file header information.” Malik column 5 line 30)

Using said result as said [received] content ID.

Warsta in view of Malik does not teach that the content ID and the received content ID are fingerprinted/hashed, while “looking up said stored multimedia content by comparing said received content ID with said stored first content ID” as recited in claim 1. Mattis teaches such an element. “this two-level indexing structure facilitates the ability to associate multiple alternate objects with a single name” (Mattis column 8 line 23). “Unlike other cache systems that use the name or URL of an object as the key by which the object is referenced, embodiments of the invention use a “fingerprint” of the content that makes up the object itself, to locate the object.” (Mattis column 8 line 28). “each name key in the directory table 110 maps to one of the vectors of alternates 122a-n, which enable the cache to select one version of an object from among a plurality of related versions. For example, the object 52 may be a Web page ad server 40 can store versions of the object in the English, French, and Japanese languages.” (Mattis column 14 line 33). A person of ordinary skill in the art would have modified Warsta in view of Malik by using duplicate detection according to the ‘fingerprint’ method of Mattis, and further included the two-level indexing of Mattis by incorporating the relevant data structures into the cache of Warsta in view of Malik. It would have been obvious at the

time the invention was made to a person of ordinary skill in the art to modify Warsta in view of Malik with Mattis in order to have an efficient web proxy.

(10) Response to Argument

In response to the arguments:

Page 8 of Appellant's Brief states that the claim requires

“(1) an item of multimedia content is stored . . .

(2) and then transcoded to be compatible with a first device. . .

(3) An instruction that includes the firstly transcoded version (content of step (2)) is received . . .

. . . in response to said instruction

(4) the original version of the stored content (content of step (1)) is transcoded.”

Appellant goes on to state that the transcoding of step (4) transcodes the original item of multimedia content in step (1) rather than the transcoded content of step (2). Finally, Appellant argues (page 9 and beginning of page 10) that Warsta in view of Malik does not disclose or suggest the above requirement by stating “the Warsta system checks if a version of that content that is compatible with device #2 is cached. If it is not cached, the Warsta system will transcode the content to be compatible with device #2. However, Warsta does *not* disclose or suggest that it will go back to the original version of the content, as opposed to transcoding the version sent from device #1 that already had been transcoded to be compatible with device #1.” In summary, Appellant contrasts two separate transcodes from original content which he asserts is being claimed and

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transcoding the original content and then re-transcoding which he asserts the prior art discloses.

The Prior Art

Warsta teaches a substantially similar system which adapts and stores content (Warsta [0008]) for devices based on their capabilities (Warsta [0009]). Warsta accomplishes this by transcoding the content for all known terminal types (*“pre-adaptation . . . which requires that content adaptations be provided for all known mobile terminal types and cached for later use.”* Warsta [0061]) or by transcoding as necessary (*“[Alternatively]if no previous content adaptation exist within database 616, then new content adaptation is performed in step 716, that matches the capabilities of the current requesting mobile terminal”* Warsta [0062]) and storing the versions indexed according to content ID and terminal type (Warsta paragraph [0058]). When content is requested the device capabilities are compared to previously requesting device capabilities and if a match is found, the cached version is provided (Warsta paragraph [0024]; also paragraph [0029]).

Warsta did not explicitly disclose forwarding and the steps of content ID lookup claimed (as discussed in Final OA dated 5/20/2010). Malik was cited as teaching this deficiency; specifically Malik disclosed a content cache (Malik 5:35) that compared version ID's (Malik 6:35) and discussed the ability to forward documents (2:15).

First, Warsta does not teach forwarding an item of multimedia, rather, Malik was cited as teaching said forwarding. As such, Warsta could not contemplate transcoding

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anything other than the original item of multimedia (or re-transcoding as asserted by Appellant), since Warsta did not contemplate dealing with 'forwarded' or already transcoded media items. Additionally Warsta contemplates performing multiple transcodes (as claimed) for multiple devices, as either a pre-adaptation step (Warsta [0061]) or as needed (Warsta [0062]), in both cases there is no recitation that the content is transcoded twice (as Appellant asserts), rather the disclosure makes it clear that the original content is transcoded in all cases ("content adaptation is prepared for each mobile terminal capability" Warsta [0061]). Malik does not disclose transcoding; therefore Malik can also not disclose re-transcoding content.

Second, Warsta in view of Malik teach the argued limitations on pages 7 and 8 of Appellant's App. Br..

(1) an item of multimedia content is stored . . . ("*Alternatively*)if no previous content adaptation exist within database 616, then new content adaptation is performed in step 716, that matches the capabilities of the current requesting mobile terminal" Warsta [0062]; since Warsta needs to obtain a second transcode, it would need to be able to retrieve the original version. Additionally Malik explicitly discloses caching the original media (Malik 5:35).

(2) and then transcoded to be compatible with a first device. . . ("*pre-adaptation . . . which requires that content adaptations be provided for all known mobile terminal types and cached for later use.*" Warsta [0061]; also "*Alternatively*)if no previous content adaptation exist within database 616, then new content adaptation is performed

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in step 716, that matches the capabilities of the current requesting mobile terminal"

Warsta [0062])

(3) An instruction that includes the firstly transcoded version (content of step (2)) is received . . . ("*Some of the recipients may in turn forward this e-mail communication to other groups of recipients.*" Malik 2:15)

. . . in response to said instruction.

(4) the original version of the stored content (content of step (1)) is transcoded. ("*pre-adaptation . . . which requires that content adaptations be provided for all known mobile terminal types and cached for later use.*" Warsta [0061]; also "[*Alternatively*] if no previous content adaptation exist within database 616, then new content adaptation is performed in step 716, that matches the capabilities of the current requesting mobile terminal" Warsta [0062]). Warsta in view of Malik at least discloses transcoding the original version of content for two different devices in Warsta paragraph [61] (pre-adaptation). Since step (4) is stated to be in response to said instruction, it would seemingly be after the 'pre-adaptation' of Warsta; however, Warsta paragraph [62] provides that in the alternative, the transcode may not be done by pre-adaptation but when "*no previous content adaptation exist within database*". Therefore, Warsta in view of Malik discloses the contested elements.

In the alternative, should it be considered that by combining Warsta with Malik Warsta's paragraph [62] would then inherently re-transcode as asserted by Appellant; Warsta's paragraph [61] which does pre-adaptation would still teaches multiple transcodes from the original media content. This is because the original media content

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needs to be pre-adapted for all known terminal types. In that case, and in view of Warsta in view Malik, it would have been obvious to modify Warsta's 'pre-adaptation' from the original media type (paragraph [61]) before the instruction to forward the transcoded media content (step (3) above) by delaying the transcoding until after the instruction to forward the media content (step (4)). It would have been obvious to delay the transcoding in order to prevent processing the media for device types that may never request the media or because not all the device types are known.

Appellant further argues (page 10) that the last Final OA (dated 5-2010) citations of Warsta paragraphs 24 and 29 "merely indicated that the warsta system would check if it already had stored a version of the content" and "That cited language and any other language in Warsta or in any of the other cited references does not disclose or suggest that, if transcoding is required for the "second device" (i.e., if a version adapted for playback on the "second device" is not available), the original version of the content would be transcoded (as claimed). The cited portion of Warsta paragraph 24 recites: "The requesting network device capabilities are compared to previous requesting network device capabilities, such that if a capability match is found, previously adapted content may be transmitted to the requesting network device, *obviating the need for an additional adaptation*" (emphasis added). Additionally, Warsta paragraph 62 discloses "If, however, no previous content adaptations exist within database 616, then a new content adaptation is performed in step 716". Therefore, Warsta at least discloses

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transcoding content for a second device and does not indicate that it contemplates re-transcoding, as Appellant asserts.

Lastly, Appellant asserts that “there is no disclosure or suggestions that the Warsta system would not transcode the firstly transcoded version (re-transcode) that was included in the instruction to forward the content to the second device, rather than transcoding the original version of the content as claimed.” However, as seen above, Warsta could not contemplate re-transcoding a forwarded media content, since it did not contemplate forwarding. Moreover, Warsta caches multiple versions of the content (Warsta [61 and 62]) and in arguendo, if it were to re-transcode a transcoded version there would need to be some mechanism of deciding which transcoded version to re-transcode, which of course, is not disclosed.

In the alternative to the above arguments, assuming arguendo that the system of Warsta in view of Malik transcodes the original media to a firstly transcoded version and then subsequently re-transcoded the firstly transcoded version (as Appellant asserts); such a re-transcode would still be a transcoding of the original media under the broadest reasonable interpretation. This is because the firstly transcoded version is a transcode of the original; thus the re-transcoded version would still be a transcode of the original, although subject to an additional transformation.

In summary, Appellant’s interpretation of the combination of Warsta in view of Malik is not supported by the references. The combination of Warsta in view of Malik

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discloses the contested claim elements. Even Appellant's interpretation of the prior art would disclose the broadest reasonable interpretation of the pending claims.

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(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Michael Chao/

Examiner, Art Unit 2492

Conferees:

/JOSEPH THOMAS/

Supervisory Patent Examiner, Art Unit 2492

/Zachary A Davis/

Primary Examiner, Art Unit 2492